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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/029,928      | 12/31/2001  | James M. Doherty     | T00362              | 5904             |

26381 7590 09/21/2005

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| EXAMINER |
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LESNIEWSKI, VICTOR D

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| ART UNIT | PAPER NUMBER |
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2152

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/029,928 | <b>Applicant(s)</b><br>DOHERTY, JAMES M. |  |
|                              | <b>Examiner</b><br>Victor Lesniewski | <b>Art Unit</b><br>2152                  |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4,6-13,15-23 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-13,15-23 and 25-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |



### **DETAILED ACTION**

1. The amendment filed 6/24/2005 has been placed of record in the file.
2. Claims 1, 3, 4, 6-8, 10, 12, 13, 15-18, 20, 22, 23, and 25-27 have been amended.
3. Claims 5, 14, and 24 have been canceled.
4. Claims 1-4, 6-13, 15-23, and 25-28 are now pending.
5. The applicant's arguments with respect to claims 1-4, 6-13, 15-23, and 25-28 have been considered but are moot in view of the following new grounds of rejection.

### ***Response to Amendment***

6. Claims have been amended to show the utilization of state information of a residential device. The amendment proves a change in scope to the independent claims as the independent claims now explicitly state that control parameters are determined from state information of the residential device. However, none of the amended claims show a patentable distinction over the prior art as evidenced by the following new grounds of rejection.
7. Several status identifiers in the amendment have been found to be improper. Please refer to 37 CFR 1.21(c) and submit the proper status identifiers in any future amendments.

### ***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 2152

9. Claims 20-23 and 25-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
10. Claim 20 recites the limitation "the tracked operational information" in line 6. There is insufficient antecedent basis for this limitation in the claim. Nowhere in claim 20 is there previous mention of tracking operational information, making the scope of the claim unclear.
11. Claims 21-23 and 25-28 are rejected due to their dependence on claim 20.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1, 2, 8, 10, 11, 17, 18, 20, 21, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petite et al. (U.S. Patent Number 6,437,692), hereinafter referred to as Petite, in view of Fukunaga et al. (U.S. Patent Number 6,144,993), hereinafter referred to as Fukunaga.
14. Petite disclosed a system for monitoring and controlling remote devices wherein the remote devices may be sensors that communicate wirelessly with a local gateway via transceivers. In an analogous art, Fukunaga disclosed a building automation system for monitoring terminals in a local area.
15. Concerning claims 1, 10, and 20, Petite did not explicitly state determining control parameters from state information of the residential device. However, Fukunaga does explicitly

Art Unit: 2152

disclose this feature as his system monitors the state information of each sensor or switch in the system. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Petite by adding the ability to utilize state information of the residential device as provided by Fukunaga. Here the combination satisfies the need for advanced monitoring and control system solutions in distributed systems. See Petite, column 2, lines 28-30.

16. Concerning claims 8, 17, and 27, Petite did not explicitly state the use of an IEEE 802.11b wireless interface. Petite does however state a wireless interface between the residential device and the residential gateway. See column 2, lines 54-62. Also, the IEEE 802.11b standard for wireless communications was well known in the art at the time of the applicant's invention so it would be a clear extension of Petite's system to use this standard for his wireless communications since his system already includes a wireless interface. Thus, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Petite by adding the ability to use an IEEE 802.11b wireless interface.

17. Some claims will be discussed together. Those claims which are essentially the same except that they set forth the claimed invention as a system or a method are rejected under the same rationale applied to the described claim.

18. Thereby, the combination of Petite and Fukunaga discloses:

- <Claims 1, 10, and 20>

A residential gateway that connects an Internet connection to an in-home network (Petite, column 17, lines 35-42) which comprises at least one residential device connected to the residential gateway (Petite, local gateway 210), the residential gateway comprising: a

software module to receive control parameters from a control server via the Internet connection and cause the residential gateway to communicate with the residential device to provide control of the residential device based on the received control parameters (Petite, column 6, lines 15-30; column 12, lines 7-11; and column 13, lines 13-27); and wherein the control server determines the control parameters from relevant control information accessed from one or more information servers on the Internet and state information of the residential device (Petite, column 7, lines 54-57 and Fukunaga, column 4, lines 47-64).

Claim 20 may also present limitations similar to claim 18 discussed below.

- <Claims 2, 11, and 21>

A residential gateway that connects an Internet connection to an in-home network which comprises at least one residential device connected to the residential gateway, as per claim 1, wherein the residential device is a home irrigation system (Petite, figure 8) that comprises: an irrigation controller connected to the residential gateway (Petite, figure 8, item 813); and at least one sprinkler connected to the irrigation controller (Petite, figure 8, item 817).

- <Claims 8, 17, and 27>

A residential gateway that connects an Internet connection to an in-home network which comprises at least one residential device connected to the residential gateway, as per claim 2, wherein the irrigation controller is connected to the residential gateway via an IEEE 802.11b wireless interface (Petite, figure 8, item 221; column 2, lines 54-62; and obviousness).

Art Unit: 2152

- <Claim 18>

A system for providing automated control of at least one residential device connected to an in-home network, as per claim 10, further comprising: a customer computer system connected to the residential gateway to provide a user with override and control capabilities and to display current and tracked state information (Petite, column 13, lines 8-30).

Since the combination of Petite and Fukunaga discloses all of the above limitations, claims 1, 2, 8, 10, 11, 17, 18, 20, 21, and 27 are rejected.

19. Claims 3, 4, 6, 7, 9, 12, 13, 15, 16, 19, 22, 23, 25, 26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petite in view of Fukunaga, as applied above, further in view of Mecham et al. (U.S. Patent Number 6,314,340), hereinafter referred to as Mecham.

20. The combination of Petite and Fukunaga disclosed a system for monitoring and controlling remote devices wherein the remote devices may be sensors that communicate wirelessly with a local gateway via transceivers. In an analogous art, Mecham disclosed an irrigation controller that collects and utilizes environmental data.

21. The combination of Petite and Fukunaga did not explicitly state the control information and parameters as claimed concerning a water cycle, an economic setpoint, and climatic information. The combination of Petite and Fukunaga also did not explicitly state the use of a weather station server to store climatic information. However, Mecham does explicitly disclose these features as recited in the claims in his system for monitoring and controlling irrigation. It would have been obvious to one of ordinary skill in the art at the time of the applicant's

Art Unit: 2152

invention to modify the combination of Petite and Fukunaga by adding the ability to use such information and parameters as a water cycle, an economic setpoint, and climatic information as well as the ability to use a server to store climatic information as provided by Mecham. Here the combination satisfies the need for advanced monitoring and control system solutions in distributed systems. See Petite, column 2, lines 28-30.

22. Thereby, the combination of Petite, Fukunaga, and Mecham discloses:

- <Claims 3, 12, and 22>

A residential gateway that connects an Internet connection to an in-home network which comprises at least one residential device connected to the residential gateway, as per claim 1, wherein the control parameters are a water cycle of the irrigation system (Mecham, column 6, line 57 through column 7, line 3).

- <Claims 4, 13, and 23>

A residential gateway that connects an Internet connection to an in-home network which comprises at least one residential device connected to the residential gateway, as per claim 1, wherein the control information is climatic information (Mecham, column 5, line 66 through column 6, line 2).

- <Claims 6, 15, and 25>

A residential gateway that connects an Internet connection to an in-home network which comprises at least one residential device connected to the residential gateway, as claim 3, wherein the water cycle is also determined based on an economic setpoint (Mecham, column 6, line 57 through column 7, line 3).



Art Unit: 2152

- <Claims 7, 16, and 26>

A residential gateway that connects an Internet connection to an in-home network which comprises at least one residential device connected to the residential gateway, as per claim 1, wherein the information server is a weather station server that stores climatic information from a plurality of weather stations (Mecham, column 1, lines 29-47).

- <Claims 9, 19, and 28>

A residential gateway that connects an Internet connection to an in-home network which comprises at least one residential device connected to the residential gateway, as per claim 1, wherein the control parameters are also determined based on an economic setpoint (Mecham, column 6, line 57 through column 7, line 3).

Since the combination of Petite, Fukunaga, and Mecham discloses all of the above limitations, claims 3, 4, 6, 7, 9, 12, 13, 15, 16, 19, 22, 23, 25, 26, and 28 are rejected.

### *Conclusion*

23. The applicant's amendment necessitated the new grounds of rejection presented in this office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). The applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

Art Unit: 2152

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Lesniewski whose telephone number is 571-272-3987. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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